

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN SENATE JUNE 21, 2011

AMENDED IN ASSEMBLY MAY 16, 2011

AMENDED IN ASSEMBLY MARCH 17, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 42

Introduced by Assembly Member Huffman

**(Coauthors: Assembly Members Achadjian, Allen, Ammiano,
Chesbro, Feuer, Halderman, Jeffries, Portantino, and Williams)**

(Coauthors: Senators Leno, Pavley, and Wolk)

December 6, 2010

An act to add and repeal Section 5080.42 of the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 42, as amended, Huffman. State parks.

Existing law gives control of the state park system to the Department of Parks and Recreation. Existing law authorizes the department to enter into agreements with an agency of the United States, a city, county, district, or other public agency or any combination thereof, for the care, maintenance, administration, and control by a party to the agreement of lands under the jurisdiction of a party to the agreement, for the purpose of the state park system.

This bill would authorize the department to enter into an operating agreement for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system, as identified by the director, with a

qualified nonprofit organization, as provided. This bill would require the operating agreement to include, among other things, a requirement that the nonprofit organization annually submit a report to the department, to be available on the Internet Web site ~~for~~ of both the department and the nonprofit organization. The bill would require the nonprofit organization and the district superintendent for the department to hold a joint public meeting for discussion of the report.

The bill would require the department to notify a Member of the Legislature of an intention to enter into an operating agreement relating to a park in the member's district, as well as notify specified committees of the Legislature. The bill would also require the department to report to the Legislature, on a biennial basis, the status of any operating agreement.

The bill would repeal these provisions on January 1, 2019.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The California state park system is a unique resource that
- 4 requires preservation and protection for future generations.
- 5 (b) California's state park system is the largest in the nation and
- 6 contains over 1.5 million acres of land managed for natural,
- 7 cultural, and historical values in 278 parks across the state.
- 8 (c) California's state park system hosts more than 80 million
- 9 visitors annually and houses over 3,100 historic buildings and
- 10 more than 14,000 individual and group campsites.
- 11 (d) California's state park system is a major draw for tourism
- 12 in the state and generates over \$4 billion annually in economic
- 13 activity in communities near state parks and in park-related
- 14 expenditures.
- 15 (e) The budget for the state park system has not kept pace with
- 16 the state's population growth and growing demand. The annual
- 17 budget for state parks has been significantly below the amount
- 18 necessary to maintain the parks in their current condition. The
- 19 ongoing shortfall has caused a burgeoning backlog of deferred
- 20 maintenance of over \$1.3 billion in 2010, inadequate staff to protect

1 park resources and maintain public access and safety, and partial
2 closures of many state parks.

3 (f) Current budget resources will force the closure of state parks
4 throughout the system and create impediments to public access
5 and enjoyment of those parks.

6 (g) Californians deserve a world-class state park system that
7 will preserve and protect the unique resources of the state for future
8 generations. In order to safeguard those resources and maintain
9 public access, California's state park system must have stable,
10 reliable, and adequate funding sources to fully fund and support
11 our state parks.

12 (h) As the search for stable funding sources continues in this
13 current budget crisis, it is critical that all efforts be made to
14 continue public access to state parks and to keep our parks open.
15 Nonprofit organizations can be important partners in meeting those
16 objectives, and where possible, they should be invited to assist the
17 state with operating parks in order to keep them open.

18 (i) *For effective protection of the natural, cultural, and historic*
19 *resources in state parks, and to continue to facilitate public access*
20 *to state parks, new partnerships, including intergovernmental*
21 *partnerships, partnerships with local governments, and involvement*
22 *from local, community, and regional groups should be encouraged*
23 *as a way to protect California's state parks.*

24 SEC. 2. Section 5080.42 is added to the Public Resources Code,
25 to read:

26 5080.42. (a) Notwithstanding any other provision of this
27 article, the department may enter into an operating agreement with
28 a qualified nonprofit organization for the development,
29 improvement, restoration, care, maintenance, administration, or
30 operation of a unit or units, or portion of a unit, of the state park
31 system, as identified by the director. If the department enters into
32 an operating agreement that involves the operation of the entirety
33 of a park unit, that agreement may be entered into pursuant to this
34 section only to the extent that the agreement would enable the
35 department to avoid closure of a unit or units of the state park
36 system that may otherwise be subject to closure. The department
37 may only enter into an operating agreement that involves the
38 operation of the entirety of a park unit for no more than 20 park
39 units. An operating agreement with a qualified nonprofit

1 organization shall include, but shall not be limited to, the following
2 conditions:

3 (1) The district superintendent for the department shall provide
4 liaison with the department, the nonprofit organization, and the
5 public.

6 (2) The nonprofit organization shall annually submit a written
7 report to the department regarding its operating activities during
8 the prior year and shall make copies of the report available to the
9 public upon request. The report shall be available on the Internet
10 Web sites ~~for~~ of both the department and the nonprofit organization.
11 The report shall include a full accounting of all revenues and
12 expenditures for each unit of the state park system that the
13 nonprofit organization operates pursuant to an operating agreement.

14 (3) All revenues received from a unit shall be expended only
15 for the care, maintenance, operation, administration, improvement,
16 or development of the unit. The qualified nonprofit organization
17 may additionally contribute in-kind services and funds raised from
18 outside entities for the care, maintenance, operation, administration,
19 improvement, or development of the unit.

20 (4) *No General Fund moneys shall be provided to a nonprofit*
21 *organization to subsidize the operation or maintenance of a park*
22 *unit. This paragraph applies to state parks, the full operation of*
23 *which are turned over to a nonprofit organization, but does not*
24 *apply to or preclude the department from entering into agreements*
25 *with nonprofit organizations to operate a portion of a state park*
26 *unit, or from entering into comanagement agreements with*
27 *nonprofit organizations that involve the sharing of operational*
28 *and financial responsibilities for the park unit and that have the*
29 *effect of reducing state costs. This paragraph does not apply to*
30 *park entrance fees, concession revenues, or any other revenues*
31 *generated within a park operated by a nonprofit organization*
32 *pursuant to this section.*

33 (b) An operating agreement entered into pursuant to subdivision
34 (a) shall honor the existing term of a current concession contract
35 for the state park unit subject to the operating agreement.

36 (c) An operating agreement entered into pursuant to subdivision
37 (a) shall specify the duties that the nonprofit organization shall be
38 responsible for carrying out relative to management and protection
39 of natural, historical, and cultural resources, and shall identify
40 those management duties that shall continue to be conducted by

1 the department, so that all core operations of the park are
2 delineated. Scientific, architectural, and engineering functions that
3 require special expertise or professional training shall only be
4 conducted by or under the supervision of qualified persons with
5 applicable expertise or training and subject to oversight by the
6 department.

7 (d) This section does not supersede the requirements of Section
8 5019.53 regarding the protection of natural, scenic, cultural, and
9 ecological values.

10 (e) The nonprofit organization and the district superintendent
11 for the department shall, following submittal of the annual report
12 pursuant to subdivision (a), hold a joint public meeting for
13 discussion of the report.

14 (f) If the department intends to enter into an operating agreement
15 for the development, improvement, restoration, care, maintenance,
16 administration, or operation of a unit or units, or a portion of a
17 unit, the department shall notify the Member of the Legislature in
18 whose district the unit is located, the Chair of the Senate Committee
19 on Natural Resources and Water, the Chair of the Assembly
20 Committee on Water, Parks and Wildlife, and the chairs of the
21 Assembly and Senate budget committees of that intention. The
22 notification shall include estimated operating costs and revenues
23 and core duties and responsibilities that are likely to be assigned
24 to the nonprofit organization and the department.

25 (g) For purposes of this section, a qualified nonprofit
26 organization is an organization that is all of the following:

27 (1) An organization that is exempt from taxation pursuant to
28 Section 501(c)(3) of the Internal Revenue Code.

29 (2) An organization that has as its principal purpose and activity
30 to provide visitor services in state parks, facilitate public access
31 to park resources, improve park facilities, provide interpretive and
32 educational services, or provide direct protection or stewardship
33 of natural, cultural, or historical lands, or resources.

34 (3) An organization that is in compliance with the Supervision
35 of Trustees and Fundraisers for Charitable Purposes Act, Article
36 7 (commencing with Section 12580) of Chapter 6 of Part 2 of
37 Division 3 of Title 2 of the Government Code.

38 (h) (1) Notwithstanding Section 10231.5 of the Government
39 Code, the department shall provide a report to the Legislature, on
40 a biennial basis, of the status of operating agreements it has entered

1 into pursuant to this section. The report shall include a list of units
2 of the state park system with operating agreements, discussion of
3 the management and operations of each unit subject to an operating
4 agreement, an accounting of the revenues and expenditures incurred
5 under each operating agreement, and an assessment of the benefit
6 to the state from operating agreements entered into pursuant to
7 this section.

8 (2) A report submitted pursuant to paragraph (1) shall be
9 submitted in compliance with Section 9795 of the Government
10 Code.

11 (i) This section shall remain in effect only until January 1, 2019,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2019, deletes or extends that date.